

### REMARKS

This application has been reviewed in light of the Office Action dated August 23, 2005. Claims 56-73 are presented for examination. Claims 56, 58, 65 and 67 are in independent form. Favorable reconsideration is requested.

On December 5, 2005, Applicant's undersigned attorney conducted a telephonic interview with the primary Examiner. During that interview, Applicant's attorney argued that WO 97-364531 (Hodgkinson) does not teach or suggest (1) "additional data comprising the routing header, the selected virtual channel and an identifier of the source node" or (2) "wherein data representing at least one of the virtual channel and the source node identifier allows the destination node to determine the transmission mode of the data packet, connected or non-connected," as recited in method Claim 56, or in corresponding apparatus Claim 65. Applicant's attorney also pointed out that independent Claims 58 and 67 contain elements similar to those discussed above. The Examiner agreed with Applicant's attorney's arguments. At the conclusion of the interview, the primary Examiner stated that he intended to meet with his supervisor to see if he would approve the allowance of this case based on the points discussed above.

Subsequently, on December 6, 2005, the primary Examiner and his supervisory Examiner telephoned Applicant's attorney and advised that the supervisory Examiner concluded that the Hodgkinson reference is not applicable to the present application and directed that the primary Examiner conduct a further prior art search. The primary Examiner stated that he intended to conduct a further search, and that he would contact Applicant's attorney to advise her of the results of the search. In a subsequent voice mail message to Applicant's attorney, the

primary Examiner indicated that the final rejection dated August 23, 2005 will be withdrawn when the Examiner receives the Applicant's written response to the August 23, 2005 Office Action. Accordingly, Applicant submits the following arguments in response to the Office Action.

Applicant notes with appreciation the indication that claims 63 and 72 would be allowable if rewritten so as not to depend from a rejected claim, and with no change in scope. Those claims have not been so rewritten because, for the reasons given below, the respective base claim of each is believed to be allowable.

Claims 56-60 and 65-69 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Hodgkinson. Claims 61, 62, 64, 70, 71 and 73 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hodgkinson in view of U.S. Patent No. 5,864,738 (Kessler).

Claim 56 is directed to a sending method of sending a data packet from a source node to a destination node through a switching network. The data packet includes user data and additional data. The method includes the steps of: (1) determining a routing header defining a path to be followed on the network by the data packet, wherein the determining step is performed independently of the transmission mode of the data packet, connected or non-connected, selecting a virtual channel representing a connection between the source node and the destination node; and sending data packet with additional data, said additional data comprising the routing header, the selected virtual channel and an identifier of the source node. The combination of the virtual channel and the source node identifier makes the connection unique in the switching network, and data representing at least one of the virtual channel and the source node identifier allows the destination node to determine the transmission mode of the data

packet, connected or non-connected.

Hodgkinson relates to a method of transmitting an asynchronous transfer mode (ATM) cell over an ATM network. A Payload Type (PT) field is added to the header that accompanies data being transmitted. When the data enters a switch node, the node reads the PT field in order to determine whether a connectionless service is required or not (see page 11, lines 6-9 and 17-28). Depending on the transmission mode that is determined based on the PT field (see step 221 in Fig. 7) (i.e., connected or non-connected) different fields are used in the header.

In particular, when the determined mode is the connected mode, then virtual path identifier (“VPI”) and virtual channel identifier (“VCI”) fields are used (steps 222, 223 and 224 in Fig. 7) in the header, while where the connectionless mode is determined, then source and destination addresses (SA and DA) are used in the header (steps 230-233 in Fig. 7).

The differences may be seen by comparing the header fields of ATM cells in the conventional network of Fig. 1 in a connected mode, as shown in Table 1 of Hodgkinson with the fields of the header of ATM cells routed in the ATM network of Fig. 5 in non-connected mode, as shown in Table 2 of Hodgkinson. The header fields of Table 1 include the VPI and the VCI, but the VPI and VCI fields are not included in Table 2. The header fields of Table 2 include the source address (SA) and destination address (DA), but the SA and DA fields are not included in the Table 1. Thus, in *Hodgkinson*, the fields used in the headers are defined in accordance with the determined transmission mode of the data packet. Accordingly, Hodgkinson does not teach or suggest “determining a routing header defining a path to be followed on the network by the data packet, wherein the determining step is performed independently of the

transmission mode of the data packet, connected or non-connected,” as recited in Claims 56.<sup>1</sup>

In addition, since as explained above, the VPI/VCI and the SA/DA fields of Hodgkinson are never transmitted together in the same packet header, Hodgkinson does not teach or suggest the limitations in Claims 56 of “sending the data packet with additional data, said additional data comprising the routing header, the selected virtual channel and the identifier of the source node” or “wherein the combination of the virtual channel and the source node identifier makes the connection unique in the switching network.”

The Office Action cites page 11, lines 5-25 of Hodgkinson as disclosing the feature of Claim 56 that “data representing at least one of the virtual channel and the source node identifier allows the destination node to determine the transmission mode of the data packet, connected or non-connected.” Applicant disagrees. The cited passage makes clear that only the PT field is used to determine the transmission mode. Therefore, Hodgkinson fails to teach or suggest this feature of Claim 56.

A review of the other art of record has failed to reveal anything which, in Applicant’s opinion, would remedy the deficiencies of the art discussed above, as a reference against Claim 56.

Independent Claim 65 is an apparatus claim corresponding to method Claim 56, and is believed to be patentable over Hodgkinson for at least the same reasons as discussed above in connection with Claim 56.

Independent Claims 58 and 67 recite features similar to those discussed above

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<sup>1</sup>/ Applicant also disagrees with the Office Action’s apparent position that the routing header of Claim 56 corresponds to the VPI of Hodgkinson.

with respect to Claim 56 and, therefore, are also believed to be patentable over Hodgkinson for the reasons discussed above.

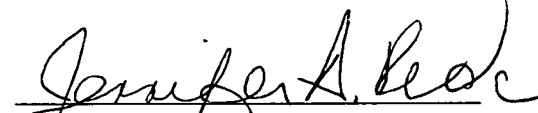
The other claims in this application are each dependent from one or another of the independent claims discussed above and are, therefore, believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

This Amendment After Final Action is believed clearly to place this application in condition for allowance and, therefore, its entry is believed proper under 37 C.F.R. § 1.116. Accordingly, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicant's undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

  
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